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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 777 of 2004
Date of Decision : 27.8.2007

Harish Dutt

...Appellant

Versus

S.S.D. Senior Secondary School, Bathinda & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Avnish Mittal, Advocate for the appellant.

Mr. Binderjit Singh, Advocate for respondents

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RAJESH BINDAL, J.

This is plaintiff's second appeal whereby suit filed by the plaintiff for recovery of Rs. 2 lacs on account of damages for loss of two precious years, mental agony, expenses incurred and harassment caused by the respondent was dismissed by the Lower Appellate Court, whereas learned trial Court had decreed the same only to the extent of Rs. 22,000/-.

The case set up by the appellant was that after passing his matriculation examination, he got admission in respondent no.1-school and at the time of admission, he was not informed that his admission was provisional. He appeared in 10+1 examination. Thereafter, he was even granted admission in 10+2 class, however, at the time of examination, he was not issued the requisite Roll No. As a result thereof, he suffered loss of two precious years in his career, for which he deserved to be compensated. Though the trial Court had granted a sum of Rs. 22,000/- to the appellant on account of expenses made by him in studies such as fee, books, tuition fee and mental agony etc., however, Lower Appellate Court considering the fact that material evidence on record was ignored by the

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trial Court recorded the following findings in para No. 23:-

> "As a result of what has been discussed above, conclusion is that cross-objector plaintiff was fully aware of the Rules and Regulations of the Board and the School. Admission was given to him in 10+1 and 10+2 provisionally. He did not clear the 5th subject nor was he registered with the Board. Accordingly Roll Number for 10+2 could not be issued to him. Fault for all this cannot be thrown on the shoulders of the school authorities. Rather the Roll number could not be issued to him due to his own fault. It being so, I am of the view that learned trial court has not properly appreciated the evidence on the record and has wrongly held plaintiff entitled to damages to the tune of Rs. 22,000/-without any basis, to which he is not entitled. In other words, he is not entitled to recover any thing from the defendants. Consequently, findings regarding issue no.1 are reversed and it is clinched against the cross-objector/plaintiff and in favour of the defendants."

Learned counsel appearing for the appellant at the time of arguments could not dispute the fact that clearance of 5th subject in matriculation examination was pre-condition for admission in 10+1 and in the absence of that he could not be permitted to appear in the 10+2 examination. It was not that the school was the only authority rather it was the Punjab School Education Board (for short 'the Board') which had to see the eligibility of the candidate. The Board was not even impleaded as one of the defendants by the appellant in the suit filed by him. Further, it had come on record that appellant was informed about the deficiency but he failed to remove the same and in the absence thereof he could not be registered with the Board.

Once it is found that the appellant was in knowledge of deficiency about his eligibility for admission in 10+1 and for appearance in 10+2 examination, no fault can be found with the school as the appellant having failed to clear the deficiency cannot blame the school for loss of two years of his career.

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Accordingly, concurring with the views expressed by the Lower Appellate Court, I do not find any merit in the present appeal and the same is dismissed.

August 27, 2007 **(Rajesh Bindal)**
Pka **Judge**